

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HARRIS CORPORATION,

Plaintiff,

vs.

HUAWEI DEVICE USA, INC.
HUAWEI DEVICE CO., LTD.,
HUAWEI TECHNOLOGIES USA INC.,
HUAWEI TECHNOLOGIES CO. LTD., AND
HUAWEI DEVICE (SHENZHEN) CO., LTD.,

Defendants.

No. 2:18-cv-00439-JRG

Jury Trial Demanded

**NOTICE REGARDING DEFENDANTS' RULE 12(b)(6) MOTION
TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER 35 U.S.C. § 101**

On March 8, 2019, Huawei moved to dismiss the Amended Complaint¹ for failure to state a claim because *all* claims of the patents-in-suit are patent-ineligible under 35 U.S.C. § 101. Dkt. No. 31. On April 3, 2019, Harris served its Disclosure of Asserted Claims and Infringement Contentions Under P.R. 3-1 and did not assert *all* claims of the patents-in-suit. Dkt. No. 46. Accordingly, Huawei hereby provides notice that it moves to dismiss the Amended Complaint because the *asserted* claims are patent-ineligible under 35 U.S.C. § 101.²

The asserted claims are as follows and Huawei respectfully submits that the Court need only address the *asserted* claims (not *all* claims of patents-in-suit) in its order on Huawei's Rule

¹ The Amended Complaint asserted one specific claim for each patent, but generally alleged that Huawei infringed "one or more claims" of each patent. Am. Compl. (Dkt. 13), ¶¶ 44, 49, 57, 62, 70, 76, 84, 88, 96, 100, 108, 112, 120, 126.

² The term "Challenged Claims" was originally defined as "All claims of the Asserted Patents" in Huawei's motion to dismiss (emphasis added); however, the revised definition is "All *asserted* claims of the Asserted Patents." Mot. (Dkt. 31), Table of Definitions.

12(b)(6) Motion to Dismiss Amended Complaint for Failure to State a Claim Under 35 U.S.C. §

101. Dkt. No. 31.

ASSERTED CLAIMS FROM THE PATENTS-IN-SUIT

Patents-In-Suit	Asserted Claims
'678 patent	12-13, 17-20, 51-52, 56-58
'690 patent	32-34, 36, 38-43, 71-73, 75-80
'227 patent	1-6, 8-13, 15-20, 22, 24
'986 patent	1, 5-6, 9, 17, 21-22, 25
'426 patent	1-27
'537 patent	1-5, 10-11, 16-19, 24-25, 30-31, 33-34, 36-40, 45-49, 54-68
'572 patent	1, 47

Dated: April 4, 2019

/s/ Melissa R. Smith
 Melissa R. Smith
GILLAM & SMITH, LLP
 TX State Bar No. 24001351
 303 S. Washington Ave.
 Marshall, Texas 75670
 Telephone: (903) 934-8450
 Facsimile: (903) 934-9257
 melissa@gillamsmithlaw.com

James R. Batchelder
 (CA Bar No. 136347)
 (Eastern District of Texas Member)
 James L. Davis, Jr.
 (CA Bar No. 304830)
 (Eastern District of Texas Member)
 Andrew T. Radsch
 (CA Bar No. 303665)
 (Eastern District of Texas Member)
 Christopher M. Bonny
 (CA Bar No. 280554)
 (Eastern District of Texas Member)
ROPES & GRAY LLP
 1900 University Avenue, 6th Floor
 East Palo Alto, CA 94303-2284
 Telephone: (650) 617-4000
 Facsimile: (650) 617-4090
 james.batchelder@ropesgray.com
 james.l.davis@ropesgray.com
 andrew.radsch@ropesgray.com
 christopher.bonny@ropesgray.com

Jolene L. Wang
(NY Bar No. 5462619)
(Eastern District of Texas Member)

ROPES & GRAY LLP

1211 Avenue of the Americas
New York, NY 10036
(212) 596-9000
(212) 596-9090
jolene.wang@ropesgray.com

Attorneys for Defendants
*HUAWEI DEVICE USA, INC., HUAWEI
DEVICE CO., LTD., HUAWEI
TECHNOLOGIES USA INC., HUAWEI
TECHNOLOGIES CO. LTD.,
and HUAWEI DEVICE (SHENZHEN) CO.,
LTD.*

CERTIFICATE OF SERVICE

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 4th day of April, 2019, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ *Melissa R. Smith*
Melissa Smith